

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-1006.01 Alana Rosen x2606

HOUSE BILL 23-1291

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A BILL FOR AN ACT

101 **CONCERNING PROCEDURES FOR EXPULSION HEARING OFFICERS, AND,**
102 **IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill clarifies the school expulsion hearing (hearing) process, including the following:

- A school district has the burden of proving by a preponderance of the evidence that a student violated state law and the school district's policy, that alternative remedies were not appropriate, and that excluding the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
April 29, 2023

student from school through expulsion or denial of admission is necessary to preserve the learning environment;

- A school district is required to provide all records that the school district intends to use as supporting evidence for expulsion or denial of admission to the student or the student's parent, guardian, or legal custodian at least 2 business days in which school is in session prior to the hearing; and
- Hearing officers are required to consider specific factors in determining findings of fact and recommendations at the conclusion of a hearing.

A hearing officer must not have a conflict of interest with regard to a student under consideration for expulsion or denial of admission, or towards any alleged victim. A hearing officer who has an unavoidable conflict of interest, but must continue to serve as a hearing officer, is required to provide proof of training on conflict of interest and bias and provide evidence that the conflict of interest is unavoidable.

The bill requires the department of education (department), on or before June 30, 2024, to create and maintain an online training program for hearing officers who conduct expulsion hearings and school administrators. Beginning January 1, 2025, hearing officers are required to complete an initial 5-hour training program within 30 days after the date the hearing officer starts work.

The training program must include information on the following:

- Child and adolescent brain development;
- Restorative justice;
- Alternatives to expulsion;
- Trauma-informed practices;
- Conflict and bias in discipline, suspension, and expulsion; and
- The requirements and implementation of applicable federal and state laws.

School districts, district charter schools authorized to expel or suspend students, or the state charter school institute may waive the use of the department's training program but shall provide a training program to hearing officers and school administrators that meets or exceeds the requirements of the department's training program.

The bill clarifies the judicial proceedings process available to a student or the student's parents, guardians, or legal custodians to set aside the school district board of education's decision to expel or deny admission to the student.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1. Legislative declaration.** (1) The general assembly
2 finds and declares that:

3 (a) Providing a quality education for all is fundamental to creating
4 a peaceful and prosperous Colorado;

5 (b) Education gives people the knowledge and skills they need to
6 stay healthy, become employed, and foster tolerance;

7 (c) According to the U.S. Department of Education, minorities
8 and students with limited English proficiency are disciplined in school at
9 higher rates than their White peers;

10 (d) Expulsions or zero-tolerance policies have a disparate impact
11 on students with disabilities, minority students, and students from
12 working class families;

13 (e) Expulsions put students at a higher risk for negative life
14 outcomes, including involvement in the criminal justice system;

15 (f) The state has an obligation to develop best practices for school
16 expulsion policies and procedures;

17 (g) To that end, effective unconscious bias training for expulsion
18 hearing officers who are engaged in the expulsion process is necessary to
19 increase awareness, manage biases, adjust behaviors, track progress, and
20 provide information that contradicts stereotypes;

21 (h) Additionally, students who are disproportionately impacted by
22 their schools' expulsion policies and procedures often deal with personal
23 and social trauma that, in turn, impacts students' brain development and
24 behavior; and

25 (i) Ensuring expulsion hearing officers who are involved in the
26 school expulsion process adopt a trauma-informed perspective and are
27 trained in recognizing unconscious biases is necessary to make

1 sustainable long-term structural changes to expulsion policies and
2 procedures that negatively impact Colorado's marginalized students.

3 (2) The general assembly, therefore, finds and declares that it is
4 necessary to bolster K-12 school attendance and require unconscious bias
5 and trauma-informed practice training for expulsion hearing officers.

6 **SECTION 2.** In Colorado Revised Statutes, 22-33-105, **amend**
7 (2)(c) and (7); and **add** (2.3), (2.4), and (4.5) as follows:

8 **22-33-105. Suspension, expulsion, and denial of admission.**

9 (2) In addition to the powers provided in section 22-32-110, the board of
10 education of each district may:

11 (c) Deny admission to, or expel for any period not extending
12 beyond one year, any ~~child~~ STUDENT whom the board of education, in
13 accordance with the limitations imposed by this ~~article, shall determine~~
14 ARTICLE 33, DETERMINES does not qualify for admission to, or continued
15 attendance at, the public schools of the district. A board of education may
16 delegate such powers to its executive officer or to a designee who ~~shall~~
17 ~~serve~~ SERVES as a hearing officer. ~~If the hearing is conducted by a~~
18 ~~designee acting as a hearing officer, the hearing officer shall forward~~
19 ~~findings of fact and recommendations to the executive officer at the~~
20 ~~conclusion of the hearing. The executive officer shall render a written~~
21 ~~opinion within five days after a hearing conducted by the executive~~
22 ~~officer or by a hearing officer. The executive officer shall report on each~~
23 ~~case acted upon at the next meeting of the board of education, briefly~~
24 ~~describing the circumstances and the reasons for the executive officer's~~
25 ~~action. A child who is denied admission or expelled as an outcome of the~~
26 ~~hearing shall have ten days after the denial of admission or expulsion to~~
27 ~~appeal the decision of the executive officer to the board of education;~~

1 after which time the decision to grant or deny the appeal shall be at the
2 discretion of the board of education. The appeal shall consist of a review
3 of the facts that were presented and that were determined at the hearing
4 conducted by the executive officer or by a designee acting as a hearing
5 officer, arguments relating to the decision, and questions of clarification
6 from the board of education. No board of education shall deny admission
7 to, or expel, any child without a hearing, if one is requested by the parent,
8 guardian, or legal custodian of the child, at which evidence may be
9 presented in the child's behalf. If the child is denied admission or
10 expelled, the child shall be entitled to a review of the decision of the
11 board of education in accordance with section 22-33-108.

12 (2.3) (a) IF AN EXPULSION HEARING IS REQUESTED BY A SCHOOL
13 DISTRICT, A STUDENT, OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL
14 CUSTODIAN, THE SCHOOL DISTRICT HAS THE BURDEN OF PROVING BY A
15 PREPONDERANCE OF THE EVIDENCE THAT THE STUDENT VIOLATED SECTION
16 22-33-106 AND THE SCHOOL DISTRICT'S POLICY. ■■■

17 (b) IF AN EXPULSION HEARING IS REQUESTED PURSUANT TO
18 SUBSECTION (2.3)(a) OF THIS SECTION BY A SCHOOL DISTRICT, A STUDENT,
19 OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN, THE
20 SCHOOL DISTRICT SEEKING TO EXPEL OR DENY ADMISSION TO THE STUDENT
21 SHALL PROVIDE ALL RECORDS THAT THE SCHOOL DISTRICT INTENDS TO USE
22 AS SUPPORTING EVIDENCE FOR EXPULSION OR DENIAL OF ADMISSION TO
23 THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL
24 CUSTODIAN AT LEAST TWO BUSINESS DAYS IN WHICH SCHOOL IS IN SESSION
25 PRIOR TO THE EXPULSION HEARING. UPON DISCOVERY OF A RECORD NOT
26 PREVIOUSLY PROVIDED, THE SCHOOL DISTRICT SHALL IMMEDIATELY
27 PROVIDE THE RECORD TO THE STUDENT OR THE STUDENT'S PARENT,

1 GUARDIAN, OR LEGAL CUSTODIAN.

2 (c) IF AN EXECUTIVE OFFICER ACTING AS A HEARING OFFICER
3 CONDUCTS AN EXPULSION HEARING PURSUANT TO SUBSECTION (2.3)(a) OF
4 THIS SECTION, THE EXECUTIVE OFFICER SHALL CREATE A REPORT WITH
5 FINDINGS OF FACT AND RECOMMENDATIONS, INCLUDING SPECIFIC FINDINGS
6 REGARDING THE FACTORS SET FORTH IN SECTION 22-33-106 (1.2). IF A
7 DESIGNEE ACTING AS A HEARING OFFICER CONDUCTS A HEARING, THE
8 DESIGNEE SHALL FORWARD FINDINGS OF FACT AND RECOMMENDATIONS TO
9 THE EXECUTIVE OFFICER AT THE CONCLUSION OF THE EXPULSION HEARING,
10 INCLUDING SPECIFIC FINDINGS REGARDING THE FACTORS SET FORTH IN
11 SECTION 22-33-106 (1.2). AN EXECUTIVE OFFICER SHALL RENDER A
12 WRITTEN OPINION THAT IMPOSES OR REFRAINS FROM IMPOSING
13 DISCIPLINARY ACTION WITHIN FIVE BUSINESS DAYS AFTER AN EXPULSION
14 HEARING IS CONDUCTED BY THE EXECUTIVE OFFICER OR BY A DESIGNEE
15 ACTING AS A HEARING OFFICER. THE EXECUTIVE OFFICER SHALL PROVIDE
16 THE WRITTEN OPINION TO THE STUDENT OR THE STUDENT'S PARENT,
17 GUARDIAN, OR LEGAL CUSTODIAN. THE EXECUTIVE OFFICER SHALL REPORT
18 ON EACH CASE ACTED UPON AT THE NEXT MEETING OF THE BOARD OF
19 EDUCATION, BRIEFLY DESCRIBING THE CIRCUMSTANCES AND THE REASONS
20 FOR THE EXECUTIVE OFFICER'S OPINION.

21 (d) A STUDENT WHO IS DENIED ADMISSION OR EXPELLED AS A
22 RESULT OF THE HEARING DESCRIBED IN SUBSECTION (2.3)(a) OF THIS
23 SECTION HAS TEN BUSINESS DAYS AFTER THE DECISION OF THE EXECUTIVE
24 OFFICER IS RENDERED TO APPEAL THE DECISION TO THE BOARD OF
25 EDUCATION, AFTER WHICH TIME THE DECISION TO GRANT OR DENY THE
26 APPEAL IS AT THE DISCRETION OF THE BOARD OF EDUCATION. THE APPEAL
27 MUST CONSIST OF A REVIEW OF THE FACTS PRESENTED AND DETERMINED

1 AT THE HEARING CONDUCTED BY THE EXECUTIVE OFFICER OR BY A
2 DESIGNEE ACTING AS A HEARING OFFICER, ARGUMENTS RELATING TO THE
3 DECISION, AND QUESTIONS OF CLARIFICATION FROM THE BOARD OF
4 EDUCATION. IF THE BOARD OF EDUCATION UPHOLDS THE DETERMINATION
5 OF THE EXECUTIVE OFFICER TO EXPEL OR DENY ADMISSION TO A STUDENT,
6 THE STUDENT IS ENTITLED TO A REVIEW OF THE DECISION OF THE BOARD
7 OF EDUCATION IN ACCORDANCE WITH SECTION 22-33-108.

8 (2.4) (a) A HEARING OFFICER MUST NOT HAVE A CONFLICT OF
9 INTEREST WITH REGARD TO A STUDENT UNDER CONSIDERATION FOR
10 EXPULSION OR DENIAL OF ADMISSION, OR TOWARD ANY ALLEGED VICTIM.
11 A SCHOOL DISTRICT MUST ENSURE THAT ANY PERSON ACTING AS A
12 HEARING OFFICER RECEIVES TRAINING ON HOW TO SERVE IMPARTIALLY,
13 INCLUDING AVOIDING PREJUDGMENT OF THE FACTS AT ISSUE AND
14 CONFLICTS OF INTEREST. THE TRAINING MUST BE INCLUDED AS PART OF
15 THE TRAINING PROGRAM OFFERED BY THE DEPARTMENT OF EDUCATION
16 PURSUANT TO SUBSECTION (2.4)(c) OF THIS SECTION.

17 (b) AN EXECUTIVE OFFICER INVOLVED IN INVESTIGATING OR
18 REPORTING AN INCIDENT THAT LEADS TO A HEARING THAT COULD RESULT
19 IN SUSPENSION, EXPULSION, OR DENIAL OF ADMISSION OF A STUDENT
20 SHALL NOT ACT AS A HEARING OFFICER. INSTEAD, THE EXECUTIVE OFFICER
21 SHALL DELEGATE SUCH POWERS TO A DESIGNEE WHO IS NOT INVOLVED IN
22 INVESTIGATING OR REPORTING THE INCIDENT.

23 (c) (I) ON OR BEFORE JUNE 30, 2024, THE DEPARTMENT OF
24 EDUCATION SHALL CREATE AND MAINTAIN THE ONLINE TRAINING
25 PROGRAM FOR HEARING OFFICERS WHO CONDUCT EXPULSION HEARINGS.
26 THE DEPARTMENT OF EDUCATION SHALL COLLABORATE WITH
27 STAKEHOLDERS ON THE CREATION OF THE ONLINE TRAINING PROGRAM,

1 WHICH MAY OCCUR VIRTUALLY BY VIDEO OR AUDIO.

2 (II) (A) BEGINNING JANUARY 1, 2025, SCHOOL DISTRICTS AND THE
3 STATE CHARTER SCHOOL INSTITUTE SHALL REQUIRE HEARING OFFICERS TO
4 COMPLETE AN INITIAL FIVE-HOUR TRAINING PROGRAM WITHIN THIRTY
5 DAYS AFTER THE DATE THE HEARING OFFICER STARTS WORK AS A HEARING
6 OFFICER.

7 (B) IN ADDITION TO THE INITIAL FIVE-HOUR TRAINING COMPLETED
8 PURSUANT TO SUBSECTION (2.4)(c)(II)(A) OF THIS SECTION, HEARING
9 OFFICERS SHALL COMPLETE AN ANNUAL TRAINING PROGRAM TO STAY
10 INFORMED ON SCHOOL DISCIPLINE UPDATES.

11 (III) TRAINING MUST INCLUDE INFORMATION ON THE FOLLOWING:

12 (A) CHILD AND ADOLESCENT BRAIN DEVELOPMENT;

13 (B) RESTORATIVE JUSTICE;

14 (C) ALTERNATIVES TO EXPULSION;

15 (D) TRAUMA-INFORMED PRACTICES;

16 (E) CONFLICT AND BIAS IN DISCIPLINE, SUSPENSION, AND
17 EXPULSION; AND

18 (F) REQUIREMENTS AND IMPLEMENTATION OF THE APPLICABLE
19 PORTIONS OF THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION
20 ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED; SECTION 504 OF THE
21 FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS
22 AMENDED; THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY
23 ACT OF 1974", 20 U.S.C. SEC. 1232g, AS AMENDED; THE "EXCEPTIONAL
24 CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS TITLE 22; AND THE
25 "SCHOOL ATTENDANCE LAW OF 1963", ESTABLISHED PURSUANT TO THIS
26 ARTICLE 33.

27

1 (IV) BEGINNING JANUARY 1, 2025, IT IS AN ABUSE OF DISCRETION
2 IF A HEARING OFFICER PRESIDES OVER AN EXPULSION HEARING AND HAS
3 NOT COMPLETED THE REQUIRED TRAINING PURSUANT TO THIS SUBSECTION
4 (2.4).

5 (V) A SCHOOL DISTRICT, A DISTRICT CHARTER SCHOOL
6 AUTHORIZED TO SUSPEND OR EXPEL STUDENTS, OR THE STATE CHARTER
7 SCHOOL INSTITUTE MAY DEVELOP AND PROVIDE A TRAINING PROGRAM
8 TO HEARING OFFICERS AND SCHOOL ADMINISTRATORS. THE TRAINING
9 PROGRAM MUST MEET OR EXCEED THE REQUIREMENTS SET FORTH IN
10 SUBSECTIONS (2.4)(c)(II) AND (2.4)(c)(III) OF THIS SECTION.

11 (4.5) THE BOARD OF EDUCATION OF EACH DISTRICT SHALL ADOPT
12 A POLICY THAT STATES A STUDENT MUST NOT BE EXPELLED OR DENIED
13 ADMISSION UNLESS THE SCHOOL DISTRICT CONSIDERS WHETHER
14 ALTERNATIVE REMEDIES ARE APPROPRIATE AND WHETHER EXCLUDING THE
15 STUDENT FROM SCHOOL IS NECESSARY TO PRESERVE THE LEARNING
16 ENVIRONMENT.

17 (7) (a) Notwithstanding any other provision of this part 1 to the
18 contrary:

19 (a) (I) An institute charter school authorized pursuant to part 5 of
20 article 30.5 of this ~~title~~ TITLE 22 may carry out the functions of a
21 suspending authority pursuant to this section; and

22 (b) (II) The state charter school institute created in part 5 of article
23 30.5 of this ~~title~~ TITLE 22 may carry out the functions of a school district
24 and its board of education with respect to the suspension, expulsion, or
25 denial of admission of a student to an institute charter school.

26 (b) IF A DISTRICT CHARTER SCHOOL, AUTHORIZED PURSUANT TO
27 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22, IS AUTHORIZED TO SUSPEND OR

1 EXPEL STUDENTS AS STIPULATED IN THE CHARTER SCHOOL CONTRACT
2 PURSUANT TO SECTION 22-30.5-106 (1)(p), THE DISTRICT CHARTER
3 SCHOOL SHALL COMPLY WITH THIS SECTION.

4 **SECTION 3.** In Colorado Revised Statutes, 22-33-106, **amend**
5 (1.2) introductory portion as follows:

6 **22-33-106. Grounds for suspension, expulsion, and denial of**
7 **admission.** (1.2) Each school district ~~is encouraged to~~ SHALL consider
8 each of the following factors before suspending or expelling a student
9 pursuant to ~~a provision of~~ subsection (1) of this section:

10 **SECTION 4.** In Colorado Revised Statutes, 22-33-108, **amend**
11 (2) and (3) as follows:

12 **22-33-108. Judicial proceedings.** (2) WITHIN FIVE BUSINESS
13 DAYS AFTER A BOARD OF EDUCATION'S DETERMINATION TO UPHOLD AN
14 EXPULSION OR DENIAL OF ADMISSION, THE BOARD OF EDUCATION SHALL
15 ISSUE A WRITTEN ORDER PROVIDING NOTICE OF THE DECISION. ~~If a child or~~
16 ~~his parent~~ STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL
17 CUSTODIAN desires court review of an order of the board of education
18 issued pursuant to this ~~article, he shall~~ ARTICLE 33, THE STUDENT OR THE
19 STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN MUST notify the
20 board OF EDUCATION in writing within five BUSINESS days after receiving
21 official ~~notification~~ NOTICE of the ~~board's~~ BOARD OF EDUCATION'S action.
22 The board of education shall ~~thereupon~~ issue, or cause to be issued, to the
23 ~~child~~ STUDENT or ~~his parent~~ THE STUDENT'S PARENT, GUARDIAN, OR
24 LEGAL CUSTODIAN a statement of the reasons for the ~~board's~~ BOARD OF
25 EDUCATION'S action WITHIN FIVE BUSINESS DAYS. UPON RECEIVING THE
26 NOTICE FROM THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR
27 LEGAL CUSTODIAN, THE BOARD OF EDUCATION SHALL PROVIDE A

1 COMPLETE AND ACCURATE COPY OF THE EXPULSION RECORD TO THE
2 STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN
3 WITHIN FIVE BUSINESS DAYS. Within ten BUSINESS days ~~thereafter~~ AFTER
4 RECEIVING THE BOARD OF EDUCATION'S EXPULSION RECORD, the ~~child~~
5 STUDENT or ~~his parents~~ THE STUDENT'S PARENT, GUARDIAN, OR LEGAL
6 CUSTODIAN may file with the court a petition requesting that the order of
7 the board of education be set aside, to which ~~shall~~ MUST be appended the
8 statement of the board of education. No docket or other fees ~~shall be~~ ARE
9 collected by the court in connection with this proceeding.

10 (3) After the petition is filed, the court shall notify the board OF
11 EDUCATION and shall hold a hearing on the matter WITHIN TWENTY-ONE
12 CALENDAR DAYS. The court shall conduct judicial review of a hearing
13 decision pursuant to rule 106 (a)(4) of the Colorado rules of civil
14 procedure and rule 3.8 of the Colorado rules of juvenile procedure.

15 **SECTION 5. Appropriation.** For the 2023-24 state fiscal year,
16 \$162,720 is appropriated to the department of education. This
17 appropriation is from the general fund and is based on an assumption that
18 the department will require an additional 0.9 FTE. To implement this act,
19 the department may use this appropriation for expulsion hearing officer
20 training and support.

21 **SECTION 6. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.